



Summary of Judgment

Secretary for Justice (“SJ”) v Wong Chi Fung (黃之鋒) (“Defendant”)

HCMP 585/2022; [2023] HKCFI 1023

**Decision** : Defendant liable for civil contempt and sentenced to 3 months’ imprisonment, and liable to contribute to SJ’s costs in the sum of \$50,000

**Date of Hearing** : 17 April 2023

**Date of Judgment/Decision** : 25 May 2023

Background

1. On 25 October 2019, the Court of First Instance (“CFI”) granted an injunction order (“**Police Doxxing Injunction**”) to SJ as the guardian of the public interest and to the Commissioner of Police on behalf of the police officers, restraining anyone from:
  - (a) using, publishing, communicating or disclosing the personal data of and concerning any Police Officer(s) and/or their family members intended or likely to intimidate, molest, harass, threaten, pester or interfere with them without consent;
  - (b) intimidating, molesting, harassing, threatening, pestering or interfering with any Police Officer(s) and/or their family members; and/or
  - (c) assisting, causing, counselling, procuring, instigating, inciting, aiding, abetting or authorizing others to commit or participate in any of the aforesaid acts.
2. On 2 June 2020, Principal Magistrate Law Tak-chuen granted an anonymity order (“**Anonymity Order**”) to protect the identities of a police officer (“**Officer**”) who used his firearm during a public order event in Sai Wan Ho happening on 11 November 2019 as well as his family.
3. During a cyber patrol by the Police, it was discovered that the Defendant published a post (“**Post**”) on his Facebook page on 14 August 2020 that disclosed the personal data of the Officer, his wife, and their two daughters. The Post was publicly accessible, and attached with a LIHKG thread that:
  - (a) disclosed the photos of the Officer and his family; and
  - (b) contained a pinned message that embedded links to webpages

containing personal information of the Officer and his family, including Hong Kong Chronicles “profile” of the Officer.

4. The Post was found to have been deleted on 17 August 2020. Despite it being relatively short-lived, the Officer and his family members were, as a result of the unauthorised disclosure of personal data, subject to, among other things, numerous nuisance telephone messages, harassment and intimidation and suffered immense stress. The daughters have had to reluctantly change school and the family was arranged to stay in a safe house for around a year.
5. In light of the breach of the Police Doxxing Injunction and Anonymity Order, SJ commenced the present civil contempt proceedings against the Defendant. The Defendant did not contest liability. The CFI dealt with sentencing on 17 April 2023, with Reasons for Decision handed down on 25 May 2023.

#### **Issues in dispute**

6. The question for determination is the appropriate sentence.

#### **Department of Justice’s Summary of the Court’s Rulings**

(full text of the CFI judgment at

[https://legalref.judiciary.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=152802&QS=%2B%7C%28HCMP%2C585%2F2022%29&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=152802&QS=%2B%7C%28HCMP%2C585%2F2022%29&TP=JU))

7. On the issue of **delay**, it is stated in the judgment that:
  - (a) Any perception of “sitting on” cases in the sense of “warehousing” them has been dispelled by the evidence filed by SJ, but the overall explanation for delay remains not particularly convincing. (§50)
  - (b) Some of the circumstances which SJ relied on to explain, if not justify, the significant delay would likely have been somewhat different had the Department of Justice focused on the “big fish” rather than the “low hanging fruit”. It would be surprising if there were not some form of prioritising. (§53)
  - (c) Undermining of the deterrent effect and loss of opportunity to lessen the harassment have at least been contributed to by SJ’s delay in bringing these proceedings. However, there was also delay on the part of the Defendant. The Defendant did not apologise when he removed the Post nor did he then express his understanding of the extent of harm caused or condemnation, which action by someone “as high profile as” the Defendant could indeed have had a significant calming or deterrent effect. (§§55-58)

8. CFI accepted that the delay in these proceedings does not make the Defendant less culpable. However, the delay had undermined the utility of these proceedings and was a factor taken into account in ordering D's contribution on costs. (§§61, 89)
9. In determining the appropriate sentence for contempt of court, the important **principles** include:
  - (a) Court orders are to be obeyed. Contempt of court orders is a serious matter. (§45(1))
  - (b) Subject to any mitigating factors, the starting and primary penalty for contempt of court in breaching an injunction order is immediate custodial sentence, and one perhaps measured in months. (§45(3))
  - (c) Imprisonment is ordinarily regarded as a sanction of last resort, and any custodial term should be consistent with the circumstances of the case. (§45(4))
  - (d) The facility afforded by the internet and social media to broadcast and publish material widely makes breaches involving such actions worse rather than less serious. (§45(7))
  - (e) The fact that the person in contempt is in a position of influence and is a person to whom others may look as an example is an aggravating factor. (§45(8))
10. On the **appropriate sentence** in the present case, the Court took into account the following factors:
  - (a) The Defendant was a public figure who had a significant public following and consequent influence. Where a person has a large social media following, the harm caused by the posting of materials may be greater. (§79)
  - (b) The Post and the consequences of it seemed to be amongst the most serious kind that have been brought back before the Court, taking into account the Defendant's personal standing and circumstances. But for the belated recognition and apologies now offered to the Officer and to the Court, the Court would impose a longer period of imprisonment. (§86)
  - (c) It was not accepted that the Defendant had no intention to generate the kind of remarks and comments arising out of the Post, which advocated violence including sexual violence. He must have had

some intention when he made the Post. (§§80-81)

(d) Specifically, that, once these proceedings were started, the Defendant quickly identified that he would admit liability and would apologise. (§84)

11. Taking into account all the circumstances of the case, CFI considered that it was appropriate and proportionate to impose an immediate custodial sentence of three months. (§86)
12. On the issue of **costs**, the Court acknowledged that the usual order in a successful contempt procedure is one against the contemnor on an indemnity basis. There is however no presumption of indemnity costs and in appropriate cases, ordering payment of contribution may reflect the appropriate degree of proportionality when the penalty and costs can be regarded as composite elements of the proceedings' impact on a defendant. In all the circumstances of this case, CFI ordered the Defendant to contribute a sum of HK\$50,000 to SJ's costs in these proceedings. (§§87-90)

**Civil Division**  
**Department of Justice**  
**25 May 2023**